

701—115.9(421,441) Posthearing motions.

115.9(1) Motion to reopen records. The board or presiding officer, on the board's or presiding officer's own motion or on the motion of a party, may reopen the record for the reception of further evidence. A motion to reopen the record may be made anytime prior to the issuance of a final decision. A motion to reopen the record filed after issuance of the final decision will not be considered. In ruling on a motion to reopen the record from a party filed prior to issuance of the final decision, the board may consider:

- a. Whether the information sought to be admitted is material;
- b. The timeliness of the motion;
- c. Whether the information sought to be admitted was available as of the date for hearing or written consideration and whether there is good cause for failing to present it;
- d. The prejudice on the other party;
- e. Any and all other factors deemed relevant by the board.

115.9(2) Rehearing and reconsideration.

a. *Application for rehearing or reconsideration.* Any party to a case may file an application for rehearing or reconsideration of the final decision. The application for rehearing or reconsideration shall be filed within 20 days after the final decision in the case is issued. The board's consideration of the application shall be limited to the admitted exhibits and testimony offered at the hearing. No new evidence will be accepted or considered.

b. *Contents of application.* Applications for rehearing or reconsideration shall specify the findings of fact and conclusions of law claimed to be erroneous, with a statement of the alleged grounds of error and the relief sought. If a claim of error of fact is asserted, the application should clearly specify the factual error and cite to admitted exhibits or testimony in support of the claim. If a claim of error of law is asserted, the application should clearly specify the legal error and cite statutes, case law, administrative rules, or other sources of law in support of the claim.

c. *Notice to other parties.* The applicant shall serve a copy of the application on all parties to the contested case in accordance with rules 701—115.3(421,441) and 701—115.4(421,441). If the application does not contain a certificate of service, the board shall serve copies on all parties.

d. *Resistance to applications for rehearing or reconsideration.* A resistance to an application for rehearing or reconsideration must be filed within ten days of the date the application was filed with the board, unless otherwise ordered by the board.

e. *Disposition.* Any application for a rehearing shall be deemed denied unless the board grants the application within 20 days after its filing.

[ARC 2108C, IAB 8/19/15, effective 9/23/15; Editorial change: IAC Supplement 11/2/22; ARC 6858C, IAB 2/8/23, effective 3/15/23]